

Development Control Committee

Minutes

Wednesday, 08 January 2020 at 18:30

Present:

Councillor Annison (in the Chair); Councillors Bird, Fairhead, Freeman, Flaxman-Taylor, P Hammond, Lawn, Myers, Wainwright, Williamson, T Wright and B Wright

Also in attendance:

Mr D Minns (Planning Manager), Mr A Nicholls (Head of Planning and Growth), Mrs G Manthorpe (Senior Planning Officer), Ms C Whatling (Monitoring Officer) Mrs H Ayers (Planning Technician), Mrs C Webb (Executive Services Officer), Mrs T Bunn (Senior Democratic Services Officer).

1 APOLOGIES FOR ABSENCE

There were no apologies for absence received.

2 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

3 MINUTES

The minutes of the meeting held on Wednesday 13 November 2019 were amended. Minute 5 should now read as follows:-

That application number 06/19/0471/F be approved.

The application was considered to be compliant with Core Strategy Policies CS8 and CS15 for the reasons stated above; in addition, the demolition of the existing building and the erection of the new building were consider to enhance and preserve the character of the Conservation Area whilst not

harming the setting of the nearby Listed Buildings. It was recommended that planning permission was subject to conditions to provide a satisfactory development, many of which were referred to in the above report.

With regard to Minute No 7, it was noted that Councillor Fairhead and not Councillor A Wright had requested that a site visit be undertaken.

The minutes of the meeting with the above amendments were then confirmed as a true record.

4 APPLICATION 06-19-0441-F, 32 BEACH ROAD, SCRATBY, GREAT YARMOUTH

The Committee received and considered the comprehensive report from the Senior Planning Officer.

The Senior Planning Officer reported that according to the draft Local Plan Part 2 Scratby is located along the coast, north of Caister-on-Sea, south of Hemsby and to the east of Ormesby St Margaret. The settlement has grown from a small linear settlement along Beach Road, the most of what is known as Scratby has been entirely built since post-war with access to the railway line. The settlement has contributed significantly to housing in Secondary and Tertiary villages with 5 housing completions and just over 20 dwellings with extant permission.

The application was a full application for the erection of four no. single storey dwellings with access off Beach Road. The Parish Council, within their consultation response have asked whether consideration has been given to conditions requiring the access to be provided prior to the development being built. The Highway conditions, including a condition ensuring the satisfactory formation of an access to the public highway is detailed at paragraph 2.3 of the officers report.

The Senior Planning Officer reported that the application site was bounded on three sides by existing residential development with a site that has a resolution to approve a residential development to the south locating the application site within an existing residential area. It was reported that the proximity of the site to other residential dwellings and services supports the sustainability of the application site. The application site can be considered a sustainable infill site given its location.

The Senior Planning Officer reported that the development gives the opportunity for minor biodiversity enhancements which can be effectively conditioned. Reasons given that the enhancements are minor is that they are restricted by the size of the development, all enhancements are valuable and should be encouraged. Enhancements include planting which can include trees that have a long-life span and could provide future roosting/nesting locations, bat and/or bird boxes erected on the dwellings to encourage protected species to the area. In addition the fences should have gaps or holes provided to allow for the free movement of hedgehogs to mitigate the loss of open habitat. Enhancements requiring planting and enhancements can

be conditioned.

The Senior Planning Officer reported that the application site was prominent primarily when travelling north on Yarmouth Road. When the development to the south of the application site is built out the current site will not be visible from any great distance which mitigates the potential impact on the character of the area. Where the development to the south not to be built out the impact is not significantly detrimental to character or form of the settlement and as a standalone application it is acceptable.

The Parish Council have asked as to whether wheel washing can be conditioned. This could be conditioned, however Highways have immediate powers to remedy debris that is deposited on the highway and this is the most appropriate route to take to remedy the condition of a road by tracking of mud.

It was reported that the dwellings proposed are single storey and of a character that is in keeping with others approved within the area. They will complement the dwellings that are currently being consulted within the locality. There are no objections from Highways as adequate parking and turning is provided. The gardens and external space are in keeping with the size of the dwellings and the development will be an attractive addition to the area. The assessment of the impact on the character of the area is undertaken, as per the above, taking into account the possibility that the development to the south may never be built out.

The Senior Planning Officer reported that an important factor when determining applications was whether a Local Authority has the ability to demonstrate a five-year housing land supply. If a Local Planning Authority cannot show that they are meeting this requirement, their policies with regards to residential development will be considered to be "out of date". By way of explanation this states that policies restricting development for reasons such as village development limits no longer hold weight and the policies that are applied are those within the National Planning Policy Framework which has a presumption in favour of sustainable development. In essence this means that development which has links to a settlement, such as the application site, is assessed as sustainable and permission should be granted as local policies that are out of date if there is not a 5 year housing land supply.

It was reported that in weighing the material considerations in this application considerable weight must be given to Paragraph 11 (d) of the National Planning Policy Framework which states that where the policies which are most important for determining the application are out-of-date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits.

In the case of *Wavendon Properties Ltd v SoS for Housing, Communities & Local Government* plus Another (June 2019, reference [2019] EWHC 1524 (Admin)), Mr Justice Dove made an important judgement on the correct interpretation of paragraph 11(d) of the National Planning Policy Framework (February 2019). Paragraph 11 (d) states:

“Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁽⁶⁾; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

The implication of the Wavendon judgement is that there must: firstly be an assessment as to which policies of the Development Plan are most important for determining this planning application; secondly, an assessment as to whether each of these policies are, or are not, “out of date”; and thirdly, a conclusion as to whether, taken as whole, these most important policies are to be regarded as “out-of-date”. If, taken as whole, they are regarded as “out-of-date”, then the “tilted balance” of NPPF paragraph 11 applies (for a refusal to be justified, the harms must “significantly and demonstrably outweigh the benefits...”). If, taken as a whole, they are not regarded as out-of-date, then the tilted balance does not apply.

The Senior Planning Officer reported that there was currently a housing land supply of 3.42 years (as at April 2019) and this is an amended figure to that in the report. Although this does not mean that all residential developments must be approved the presumption in favour of sustainable development must be applied. While it is correct to say that not all developments have to be approved it must be shown to refuse a development that any adverse impacts approving an application for housing would significantly and demonstrably outweigh the benefits of providing the housing. The application can be sufficiently conditioned and the application is a full application so can be assessed as deliverable.

The Senior Planning Officer reported that whilst various policies are of importance for determining the application (and these are highlighted above), the most important policy for the determination of the application is, in her judgement, Saved Local Plan Policy HOU 10, New Dwellings in the Countryside. This policy – which essentially deals with settlement boundaries – is clearly out-of-date and this confirms that the “tilted balance” therefore applies.

The Senior Planning Officer reported that little harm was identified in the current application and the harms do not significantly and demonstrably outweigh the benefits of the four additional dwellings.

The Senior Planning Officer reported that the application was recommended for approval subject to the conditions to ensure an adequate form of development including those requested by consultees.

In respect of this application there were no submissions from the agent, objectors or Ward Councillors.

Councillor Mogford sought clarification on the minor biodiversity enhancements and asked that these were made stronger with particular reference to bird boxes and trees.

Members chose not to undertake any further debate.

Following a unanimous vote it was RESOLVED:

That application 06/19/0441/F be approved subject to the conditions to ensure an adequate form of development including those requested by consultees.

The proposal complies with the aims of Policies CS2, CS3, CS9 CS11 and CS14 of the Great Yarmouth Core Strategy.

5 APPLICATION 06-19-0025-O, TRETTS LANE - ROLLESBY ROAD (LAND IN CORNER) FLEGGBURGH

The Committee received and considered the comprehensive report from the Senior Planning Officer.

The Senior Planning Officer reported that the application was an outline application with some matters reserved, access and layout form part of the application with landscaping, scale and appearance to be decided at the reserved matters stage. Appearance will need to be carefully considered should the application be approved in order to promote an attractive form of development which does not adversely affect the character of the area. The appearance will also need to carefully consider the overlooking potential to the south. While layout was acceptable, the scale of the development, which is not part of the application, may need to be reduced should the design of the development not be able to adequately overcome the potential adverse impact on the surrounding properties however this is for the reserved matters stage should the application be approved.

The layout proposed allows for the trees which are on site to be given adequate root protection areas and is supported by the Assistant Grounds Manager and Arboricultural Officer. Two of the trees on site are covered by a tree preservation order (TPO) and are therefore protected. These trees are proposed to remain with adequate root protection areas. The layout of the development is also been considered to protect the trees in the future by setting the dwellings away from the canopy spread to mitigate against future occupants requesting that they are removed or altered owing to the impact on the dwellings. The layout as applied should allow for a harmonious

coexistence between the trees and the dwellings applied for.

The Senior Planning Officer reported that when assessing the application, the impact on the Broads National Park is a material consideration that holds substantial weight. The layout of the development is appropriate and respects the setting, with specific reference the retention of the trees on site and there are no objections to the development from the Broads Authority.

According to the draft Local Plan Part 2, Fleggburgh is one of the largest and best served secondary village in the Borough, with facilities including a primary school, GP surgery and sports club/gym. The settlement is located along the A1064, inland 6 miles north-west of Caister-on-Sea. The village is adjacent Filby Broad which further encourages its attraction as a tourist destination, with a wide range of holiday cottages, and a camping and caravan park.

The Senior Planning Officer reported that the application site was bounded one side by a development which is currently under construction and a residential dwelling to the east. To the west on the other side of the road are residential dwellings. The application site is not assessed as being in an isolated location and would fit into the character of the area.

The application site, while bounded by residential uses and ongoing development is located within a rural village within close proximity to the Broads Authority Executive Area, as such consideration to protected species such as bats is reasonable. There are no trees proposed to be removed as part of the development and it is recommended that external lighting is restricted to mitigate any impact on bats.

The Senior Planning Officer reported that although not in relation to the application, information cited as 'Tretts Lane' applications has been submitted detailing the results of a Bat Survey. The survey demonstrated that there are bats in the locality by number of sightings; however it is not verified or put forward with any context of disturbance or impact. While it is valuable to acknowledge that the area has bats foraging, in the absence of context it is difficult to assess that the application will have an adverse impact on the bats within the area. As per the above and below paragraph planting, restrictions on lighting and biodiversity improvements should be included within the scheme.

The development gives the opportunity for biodiversity enhancements commensurate with the size of the development which can come through at reserved matters stage. Enhancements include planting which can include trees that have a long-life span and could provide future roosting locations, bat and bird boxes erected on the dwellings to encourage protected species to the area and, with specific regard to bats, planting of night smelling flowers as part of the landscaping scheme. In addition, the fences should have gaps or holes provided to allow for the free movement of hedgehogs to mitigate the loss of

open habitat.

The Senior Planning Officer reported that the Parish Council, while supporting the application, note that Tretts Lane is of restricted width. There are no highways objections to the application from Norfolk County Council subject to conditions being applied to any grant of planning permission.

The Senior Planning Officer reported that the application was an outline application and as such to ensure deliverability it is recommended that should the application be approved there is a condition placed on the permission requiring that reserved matters are submitted within 12 months of the decision being issued.

An important factor when determining applications is whether a Local Authority has the ability to demonstrate a five-year housing land supply. If a Local Planning Authority cannot show that they are meeting this requirement, their policies with regards to residential development will be considered to be "out of date". There is currently a housing land supply of 3.42 years (as at April 2019) which is a substantial shortfall. In addition, the publication of the first Housing Delivery Test figures in February 2019 showed that the Borough had not seen delivery of 75% of the housing requirement over the previous three-year period. Although this does not mean that all residential developments must be approved the presumption in favour of sustainable development must be applied.

In weighing the material considerations in this application considerable weight must be given to Paragraph 11 (d) of the National Planning Policy Framework states that where the policies which are most important for determining the application are outof- date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits. Footnote 7 states that "this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years."

The application site is a sustainable one, being within a village with (albeit limited) facilities, and as adjacent to existing residences it cannot therefore be assessed as isolated.

The Senior Planning Officer reported that few harms are identified with the application, and with reduced weight given to Saved Local Plan Policy HOU10 and the "tilted balance" applying, the harms do not, in her judgement, significantly and demonstrably outweigh the benefits.

The Senior Planning Officer reported that the application was recommended for approval subject to the conditions to ensure an adequate form of development including those requested by consultees and a one-year condition for the submission of reserved matters. The proposal complies with

the aims of Policies CS2, CS3, CS9, CS11 and CS14 of the Great Yarmouth Core Strategy.

In respect of this application there were no further submissions from the agent, objectors or Ward Councillors.

A member sought clarification in respect of the access road providing access to the 13 dwellings planned.

Members sought clarification in respect of the status of the trees and their TPO status.

Following Member debate and a vote it was: -

RESOLVED:

That application 06/19/0025/O be approved subject to the conditions to ensure an adequate form of development including those requested by consultees and a one-year condition for the submission of reserved matters.

6 APPLICATION 06-18-0436-O, NEW HOUSE (LAND ADJ) OFF ROLLESBY ROAD, FLEGGBURGH

The Committee received and considered the Senior Planning Officer's report and noted that this application had been re-presented following a site visit on 16 December 2019.

The Committee were advised that any Members who had not attended the site visit would not be able to speak or vote on this item. Councillors Lawn, Mogford, Wainwright and Williamson had been unable to attend the site visit. At this point Councillors Wainwright and Williamson left the meeting, Councillors Lawn and Mogford remained but did not participate in the debate and did not vote.

The Senior Planning Officer reported that the application was an outline application with some matters reserved. Access, scale and layout form part of the application with landscaping and appearance to be considered at the reserved matters stage. Appearance will need to be carefully considered should the application be approved in order to promote an attractive form of development which does not adversely affect the character of the area giving special consideration to the proximity of the Broads Authority Executive Area. When assessing the application, the impact on the Broads Authority is a material consideration that holds substantial weight. The scale of the development is appropriate and respects the setting, with specific reference the retention of all trees on site which provides natural screening between the development and the Broads Authority Executive Area.

According to the draft Local Plan Part 2, Fleggburgh is one of the largest and best served secondary village in the Borough, with facilities including a primary school, GP surgery and sports club/gym. The settlement is located along the

A1064, inland 6 miles north-west of Caister-on-Sea. The village is adjacent Filby Broad which further encourages its attraction as a tourist destination, with a wide range of holiday cottages, and a camping and caravan park.

The application site was bounded on three sides by low density housing, separated to the south and east by a narrow road way. To the north of the application site are open fields utilised as agricultural land. The application site is designated as Grade 1 agricultural land and partly comprises a bowling green. The design and access statement has noted that the bowling green is no longer in use but does not identify how long it has been redundant for. The land is within private ownership and has no designation within the Local Plan.

The Senior Planning Officer reported that only a section of the development site is within Flood Zone 2, the remainder of the site is located within Flood Zone 1 so the discussion on the flood risk is in relation to the section of the site within Flood Zone 2. The Core Strategy, at CS13 a), seeks to direct development away from areas identified as being at high risk of flooding. There has been no comment from the Environment Agency, who were consulted with regards to their assessment of flood risk. They assessed the consultation as 'returning without comment'. The lack of response from the Environment Agency does not automatically allow for the assumption that the site is safe and should be developed. The Local Authority are still required to assess the site for suitability for development.

The site is located within Flood Zone 1 and 2.

It is considered that there is a low risk of groundwater flooding at the site from underlying deposits and a very low risk of surface water flooding and artificial sources.

There have been a number of applications and approvals for development within the village of Fleggburgh so when assessing the site sequentially against other available sites the extended area should be considered. Great Yarmouth has a housing land supply of 3.42 years, it can be reasonably assessed that there are limited development sites available that are not within flood areas given the limited availability of development sites. While development should be situated away from flood zones the development in this instance is not all within a flood zone and has been assessed within the submitted Flood Risk Assessment as having a dry route to land not within the flood zone. The submitted Flood Risk Assessment does not recommend the raising of finished floor levels to avoid the flood risk and has found that the houses that are located within flood zone 2 have safe land within the dwelling.

The Senior Planning Officer reported that Objections have stated that the development as proposed will disturb bats within the area. the applicant has submitted the results of a bat survey. The survey demonstrated that there are bats in the locality by number of sightings; however it is not verified or put forward with any context of disturbance or impact. The land as existing is agricultural land with no trees proposed to be removed. The absence of loss of any areas for roosting make the potential for disturbance minimal, although it

would be of benefit to restrict external lighting to ensure that the development does not cause excessive light pollution. In addition to the restriction of external lights should the development be approved measures to ensure that protected species are not disturbed should be investigated and adopted.

The application site is within 400m of a designated site and as such the applicant has been required to submit details of drainage methods to ensure that the application site will not have an adverse impact on the designated site through hydrological links. The information submitted has been assessed internally and by Norfolk County Council to ensure that there will be no significant impact through the hydrological links. In addition, a bespoke Habitat Regulation Assessment has been submitted and accepted by the Local Authority as Competent Authority (as detailed above in the report).

The Senior Planning Officer reported that there have been objections to the application on the grounds of highway safety with reference to the access and the resulting increase in traffic from the development. Norfolk Highways are satisfied, following the submission of additional drawings, that the visibility splay can be provided and that the access and internal layout is acceptable. There are no highways objections to the application from Norfolk County Council subject to conditions being applied to any grant of planning permission.

The Senior Planning Officer reported that the NHS have stated that they have concerns over the development's impact on their local surgery and asked for more time within which to carry out consultation on the impacts. There has been further comment from the NHS in May 2019 stating that they had nothing further to add to their previous comment. While it is understood that development puts increased pressure on service providers, in the absence of any additional information regarding the concerns or additional information, the weight that can be placed upon the objection is limited. Although it is unusual to comment on separate applications during an assessment, given that that they are decided on merit, in this instance it is noted that the NHS was consulted on an application for 33 dwellings within the very near proximity and, with a response having been due at the end of August, there has at the time of writing been no comments received.

The Senior Planning Officer reported that the application was an outline application. Having discussed this with the agent for the application they have confirmed that there are developers interested in bringing the site forward and they envisage an early start date. Whilst there can be no certainty of eventual delivery, the asserted developer interest is useful to know and this goes towards demonstrating that the site can be delivered. It is recommended that should the application be approved there is a condition placed on the permission requiring that reserved matters are submitted within 12 months of the decision being issued.

The Senior Planning Officer reported that an important factor when determining applications is whether a Local Authority has the ability to demonstrate a five-year housing land supply. If a Local Planning Authority

cannot show that they are meeting this requirement, their policies with regards to residential development will be considered to be "out of date". There is currently a housing land supply of 3.42 years (as at April 2019) and that this is an amended figure to that in the report, which is a substantial shortfall. In addition, the publication of the first Housing Delivery Test figures in February 2019 showed that the Borough had not seen delivery of 75% of the housing requirement over the previous three-year period. Although this does not mean that all residential developments must be approved the presumption in favour of sustainable development must be applied.

The Senior Planning Officer reported that the implication of the Wavendon judgement is that there must: firstly be an assessment as to which policies of the Development Plan are most important for determining this planning application; secondly, an assessment as to whether each of these policies are, or are not, "out of date"; and thirdly, a conclusion as to whether, taken as whole, these most important policies are to be regarded as "out-of-date". If, taken as whole, they are regarded as "out-of-date", then the "tilted balance" of NPPF paragraph 11 applies (for a refusal to be justified, the harms must "significantly and demonstrably outweigh the benefits..."). If, taken as a whole, they are not regarded as out-of-date, then the tilted balance does not apply.

The application site is a sustainable one being within a village with facilities, albeit limited facilities and adjacent to existing residences it cannot therefore be assessed as isolated. There is a conflict with an in date policy of the Core Strategy, policy CS13 with reference the site having an area of flood risk within however, as per the information submitted and the assessment above, in this particular instance and taking into account the limited amount of space that is included within the flood zone when looking at the site as a whole it is assessed that the harms do not demonstrably outweigh the benefits of providing housing.

The Senior Planning Officer reported that there are also harms associated with the loss of Grade 1 agricultural land and the impact on biodiversity within the local area. Being farmed land the biodiversity present on the site, in the absence of a policy requiring detailed information to be submitted, can be assessed as no harms occurring through loss of the land that would outweigh the need for housing; however, this is caveated by the need for additional enhancements that can be secured by way of condition

The Senior Planning Officer reported that whilst various policies are of importance for determining the application (and these are highlighted above), the most important policy for the determination of the application is, in her judgement, Saved Local Plan Policy HOU 10, New Dwellings in the Countryside.

The Senior Planning Officer reported that the application was not one that can be assessed without balancing the material considerations carefully. The lack of a 5 year housing land supply and the need to provide housing provides a material reason for approval in favour of the development and, it is assessed

on marginal balance, that the harms identified do not significantly and demonstrably outweigh the benefits of providing housing.

The Senior Planning Officer reported that the application was recommended for approval subject to the conditions to ensure an adequate form of development including those requested by consultees and a one year condition for the submission of reserved matters and a s106 agreement securing Local Authority requirements of children's recreation, public open space, affordable housing and Natura 2000 payment. The proposal complies with the aims of Policies CS2, CS3, CS9, CS11 and CS14 of the Great Yarmouth Core Strategy.

Mr Duffield, Agent provided comments on some of the issues raised and advised that there was no requirement for flood risk mitigation and that this was a low density rural development and that insurance for the properties should be at normal rates.

Mrs Allen / Docherty, objector, spoke on behalf of 30 local residents and urged that the Committee refuse the application due to the traffic implications with particular reference to the shared access road, Rollesby Road, she said that there were safety issues due to the lack of footpaths and the visibility splay. She also spoke with reference to the removal of wildlife access. She advised that there was a first draft of a Neighbourhood plan had been sent to the borough council.

The Senior Planning Officer reported that the Neighbourhood plan is at a very early stage and with reference to the access road Highways had no objections.

No Ward Councillors wished to speak on the application.

Members reported that they were in favour of the application but had reservations that there were issues in respect of the access and footpaths. The Senior Planning Officer advised that the width of the road can be conditioned to be retained in perpetuity and that a footpath be installed.

Following a vote, it was RESOLVED:-

That application 06/18/0436/O be approved subject to the conditions to ensure an adequate form of development including those requested by consultees and for the width of the road to be retained in perpetuity and that a footpath be installed. Also a one year condition for the submission of reserved matters and a s106 agreement securing Local Authority requirements of children's recreation, public open space, affordable housing and Natura 2000 payment. The proposal complies with the aims of Policies CS2, CS3, CS9, CS11 and CS14 of the Great Yarmouth Core Strategy.

7 PLANNING APPLICATIONS CLEARED UNDER DELEGATED AND COMMITTEE DECISIONS BETWEEN 1 NOVEMBER TO 19 DECEMBER

2019.

The Committee received and noted the planning applications cleared under delegated officer decision and by the development control committee for the period of 1 November 2019 to 19 December 2019.

The Planning manager reported that the Secretary of State had not requested to call in the application in respect of the Marina Centre demolition so this has now been progressed.

8 ANY OTHER BUSINESS

The Chairman reported that there was no other business of sufficient urgency to warrant consideration.

The meeting ended at: 20:00